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**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of )  
 )  
Review of the Commission's ) MM Docket No. 91-221  
Regulations Governing Television )  
Broadcasting )

To: The Commission

**COMMENTS OF GANNETT CO., INC.**

Gannett Co., Inc. ("Gannett"), by its attorneys and pursuant to Sections 1.415 and 1.419 of the Commission's rules, 47 C.F.R. §§ 1.415, 1.419, hereby submits these comments in response to the Second Further Notice of Proposed Rulemaking issued by the Commission in the above-captioned proceeding.<sup>1</sup>

Through its *Second Further Notice*, the Commission seeks comment regarding, *inter alia*, proposed revisions to the local television ownership or "duopoly" rule, which prohibits a person or entity from having interests in two television stations whose Grade B signal contours overlap. See 47 C.F.R. § 73.3555(b). The Commission has tentatively concluded that a rule authorizing common ownership of television stations licensed to communities located in

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<sup>1</sup> FCC 96-438 (released November 7, 1996) ("*Second Further Notice*").

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separate designated market areas ("DMAs"), that do not have overlapping Grade A contours, would serve the public interest. Gannett concurs that the existing Grade B contour rule is overly restrictive, but submits that the Commission should adopt a rule which permits common ownership of stations located in separate DMAs, without regard to contour overlap. In very large DMAs, the rule should accommodate common ownership where there is DMA overlap but no Grade A overlap.

#### **I. INTRODUCTION AND SUMMARY**

Gannett is the parent company of fifteen (15) Commission licensees, which collectively hold licenses for sixteen (16) television stations and five (5) radio stations. Gannett also is the publisher of 92 daily newspapers throughout the United States, including USA Today.

Gannett strongly endorses the Commission's tentative conclusion that the current Grade B duopoly test is overly restrictive. As demonstrated below, Gannett's temporary common ownership of WXIA-TV, Atlanta, GA, and WMAZ-TV, Macon, GA, pursuant to an interim policy waiver request, illustrates clearly that stations with overlapping Grade B contours can serve distinct markets, and are unlikely to have enough viewers in common to raise anticompetitive concerns. Moreover, television viewers have many more

choices among video programming services than when the current duopoly rule was adopted. Thus, the prospect that a relaxation of the Grade B standard could negatively impact program diversity is remote.

It is Gannett's experience that stations licensed to communities located in separate DMAs serve distinct markets. A DMA-based market definition for purposes of the Commission's television ownership rule generally would best reflect the economic market in which a station competes. Supplementing a DMA-based market definition with a contour overlap prohibition is unnecessary, for reasons aptly stated by the Local Station Ownership Coalition ("LSOC") in comments submitted in this proceeding. Finally, the duopoly rule should be refined to account for those situations, particularly in the Western states, where the DMA is so large that it cannot fairly be said to be determinative of the geographic market for the stations located therein. In sum, Gannett submits that the Commission should adopt the approach advocated by the LSOC, which would permit common ownership of television stations in separate DMAs regardless of contour overlap, as well as common ownership of stations in the same DMA with no Grade A contour overlap.

## **II. DISCUSSION**

Through its duopoly rule, the Commission seeks to promote diversity, particularly program and viewpoint diversity. In addition, the Commission intends to foster the competitive operation of broadcast television stations' program distribution and advertising markets. Gannett believes that achievement of these goals can be assured while securing a number of benefits, including economies of scale, through relaxation of the rule. As described below, it is Gannett's position that: (1) relaxation of the Grade B standard in favor of a DMA-based market definition will serve the public interest; and (2) a two-tiered rule is necessary to provide for the same duopoly benefits in very large DMAs.

### **A. Gannett's Common Ownership of WXIA-TV, Atlanta, GA and WMAZ-TV, Macon, GA Has Served and Would Continue To Serve the Public Interest, Supporting Relaxation of the Grade B Standard in Favor of a DMA-Based Market Definition**

For more than a year, Gannett has operated WXIA-TV, Atlanta, GA, and WMAZ-TV, Macon, GA, two stations whose predicted Grade B contours overlap. Gannett's experience with these stations is illustrative of the significant benefits to be gained through relaxation of the Grade B standard. While conferring significant benefits upon station viewers, common ownership of these stations, which are located in separate DMAs and serve two completely

distinct markets, has had no adverse impact on diversity and has not produced undue economic concentration.

Gannett acquired WMAZ-TV on December 4, 1995, when it consummated an assumption of control of Multimedia, Inc., pursuant to prior Commission consent. In re Application of Multimedia, Inc. and Gannett Co., Inc., 11 FCC Rcd 4883 (1995) ("Order"). Because WMAZ-TV's predicted Grade B signal contour materially overlaps the Grade B signal contour of Gannett's station WXIA-TV, the Commission permitted common ownership of the two stations pursuant to temporary waiver, requiring Gannett to divest one of the stations at the end of the waiver period. (That waiver period would be extended pursuant to the Interim Policy established in the *Second Further Notice*, and Gannett has requested such an extension.)

Under the existing Grade B standard, common ownership of WXIA-TV and WMAZ-TV on a permanent basis is prohibited. Under a DMA-based approach, common ownership of the stations would be permitted, because the stations are located in different DMAs.<sup>2</sup> Macon, Georgia, the 124th largest DMA, is located approximately 75 miles southeast of Atlanta. Atlanta is in a separate DMA -- the nation's 10th largest.

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<sup>2</sup> Common ownership would also be permitted under the Commission's proposed Grade A/DMA approach, as the predicted Grade A contours of the stations do not overlap.

Gannett submits that, in such cases, the DMA-based approach rationally reflects the geographic market for each of these stations, and that a relaxation of the Grade B standard to permit common ownership of such stations will clearly serve the public interest. WXIA-TV and WMAZ-TV cater to distinct cities and audiences; the stations have few potential viewers in common. Each station has its own programming, sales and traffic departments. While the distinctiveness of the Macon and Atlanta markets has assured that all station operations remain separate, common ownership has permitted Gannett's substantial resources to be applied to the Macon station.

Specifically, WMAZ-TV has been able to draw upon Gannett's considerable experience and personnel to improve the station's news and community affairs programming. For example, Gannett's resources have enabled WMAZ-TV to hire a community affairs director, apply for a license to operate a weather radar station, and utilize the news helicopter purchased for WXIA-TV to provide aerial footage of stories of interest to the Macon community. WMAZ-TV and WXIA-TV share resources to cover state and regional stories, leaving WMAZ-TV's news department with more manpower to cover stories of particular interest to local viewers.

Based on its own experience, Gannett submits that there exists no threat to diversity or undue concentration of economic power arising from a relaxation of the Grade B

economic power arising from a relaxation of the Grade B standard, while the countervailing benefits may be sizable.

Further, Gannett fully supports LSOC's position that a contour overlap test would be largely redundant and unnecessary. As LSOC concludes, using Washington/Baltimore and Boston/Providence as examples, where stations are located in separate DMAs, overlap of their Grade A contours occasions no finding that they are competitors. Gannett submits, therefore, that the Commission permit common ownership of stations in separate DMAs without regard to contour overlap.

**B. The Existence of Very Large DMAs Results in Anomalies Which Warrant Adoption Of a Two-Tiered Local Television Ownership Rule**

In its *Second Further Notice*, the Commission recognized that a Grade A/DMA approach would prove "more stringent in very large DMAs than the existing rule because it would not permit common ownership of stations in the same DMA even if they had no Grade B overlap." *Second Further Notice* at n.31. Gannett believes that such a result is plainly inconsistent with the objectives to be advanced through relaxation of the Grade B standard, and advocates a two-tiered approach, under which common ownership would be permitted both in cases where there is no DMA overlap and in situations involving a single DMA where there is no material Grade A overlap.

In geographically large DMAs, for example, the Phoenix DMA, which covers more than 83,000 square miles, two stations located at the extreme ends can hardly be considered competitors. The Commission should, therefore, create an exception to the DMA-based market definition for stations located in the same DMA, but with no predicted Grade A contour overlap. As LSOC indicates, such stations typically are licensed to communities separated by 60 to 100 miles or more, and the Grade A contour serves as a reasonable determinant for the market in which such stations compete.

### III. CONCLUSION

For the foregoing reasons, Gannett urges the Commission to modify its duopoly rule to permit common ownership both in cases where there is no DMA overlap and in cases where stations share the same DMA but there is no Grade A overlap.

Respectfully submitted,

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